INVESTIGATIONS

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ALLEGED EMPLOYEE IMPROPRIETIES

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SENTENCING UPDATES

The Office of Investigations is responsible for conducting investigations of alleged criminal or otherwise prohibited activities impacting on FDIC and its programs. During the last 6 months, the Office of Investigations opened 55 cases and closed 185. At the end of the period, we had 194 investigations in progress. This caseload is generated through a variety of sources. A substantial body of our work is developed based on information provided to us through close working relationships we have established with U.S. Attorney's Offices and other law enforcement agencies. Some cases are developed as a result of referrals from the Congress, FDIC management, the OIG Hotline, and the OIG Office of Audits. Still other investigations are initiated based on information reported directly by witnesses and victims of fraudulent activity.

OIG investigations can result in a wide range of actions, including criminal convictions with court ordered incarceration, fines and restitution; recoveries through civil prosecution; and administrative sanctions against employees. This period, our investigations led to indictments or criminal charges against 14 individuals or entities. Additionally, 15 individuals were convicted and 21 individuals or entities were sentenced as a result of investigations we conducted. At the end of the period, indictments or criminal charges were pending against 55 individuals. Fines, restitution, and monetary recoveries exceeded $4.3 million for the period. Administrative actions taken as a result of investigations this period included the removal of three individuals from FDIC employment, the suspension of six employees, and the demotion of three others.

As illustrated in the cases described below, OIG investigations involve subjects from a variety of professions and target an array of fraudulent schemes. During the last 6 months, investigations of contractors who defrauded the FDIC or the former Resolution Trust Corporation (RTC) met with success through both criminal and civil prosecutions. We also saw

INVESTIGATIVE STATISTICS

Judicial Actions:	
Arrests	4
Indictments/Informations	14
Convictions	15
Pre-Trial Diversions	1
Actions Involving FDIC Employees as a Result of Investigations:	
Removals	3
Suspensions	6
Demotions	3
OIG Investigations Resulted in:	
Fines of	$172,250
Restitution of	$1,080,756
Monetary Recoveries of	$3,069,574
Investigative Savings/Cost Avoidance	$530,095
Cases Referred to the Department of Justice (U.S. Attorney)	50
Other Referrals:	
FDIC Management	29
State/Local	4
FDIC Ethics	3
OIG Audit	1
Other Federal Agencies	1
OIG Cases Conducted Jointly with Other Agencies	22

significant criminal and civil actions stemming from our investigations targeting fraud by individuals who purchased or attempted to purchase assets the FDIC or former RTC acquired from failed institutions. Our investigations of alleged improprieties by FDIC or former RTC employees also resulted in criminal sanctions this period. Another productive area of investigation for the OIG has been in cases involving fraud by borrowers who attempted to acquire discounted work-outs of their debts with the FDIC or former RTC. Described below are the highlights of our work in these important areas, as well as sentencing updates on cases we have discussed in prior Semiannual reports.

ASSET SALES

DEVELOPER INDICTED AFTER ALLEGEDLY OBTAINING INSIDER INFORMATION TO BID ON RTC ASSETS

A federal grand jury in the District of Massachusetts indicted a New York City real estate developer on charges of conspiracy, impeding the functions of the RTC, and making false statements, based on evidence developed during an investigation we conducted jointly with the Federal Bureau of Investigation (FBI) under the direction of the New England Bank Fraud Task Force. As a result of the investigation, the grand jury also charged two corporations controlled by the developer and a Massachusetts limited partnership with corruptly impeding the RTC.

As described in the indictment, the developer allegedly participated in an RTC auction of non-performing mortgage loans, secured by real property, which the RTC had acquired from various failed savings and loans. Under the RTC's bidding rules and pursuant to a Confidentiality Agreement, bidders were required to sign, bidders could not communicate with the debtors on the mortgages to be auctioned. The developer and an employee acting under the developer's direction allegedly engaged in a series of prohibited communications with the debtor on a $17.9 million note, which was secured by an unfinished 750 condominium unit retirement community on Cape Cod. The real estate developer allegedly used the information he obtained from the debtor to help him in structuring the winning bid for the purchase of the $17.9 million note and a $15 million pool of assets which was also being auctioned by RTC. Based on a bid of $10.6 million, RTC awarded the sale to the developer's company and agreed to provide 80 percent, or approximately $8.5 million, in seller financing.

The indictment also alleged that the developer made false statements to RTC when asked to respond to allegations that he had violated the RTC's Confidentiality Agreement. The developer allegedly made false statements about these prohibited communications during a meeting with RTC officials, in two sworn affidavits, and in purchase and loan closing documents in which he certified that he had complied with RTC's bidding rules.

In conjunction with the indictment, the real estate developer and two of his companies were ordered to forfeit property derived from the alleged offenses, including over $9 million in first lien notes auctioned by RTC, all of which were secured by property on Cape Cod.

MAN CHARGED IN ALLEGED REAL ESTATE SCAM

Following an investigation by the OIG, a California man was indicted by a federal grand jury in Los Angeles and arrested by OIG agents on charges of wire fraud and impersonating a federal employee. The defendant allegedly represented himself to be an employee of the RTC responsible for selling real estate the government had seized or otherwise acquired. As described in the indictment, the defendant told the victims that he was able to provide them with special deals on the government-owned property. He also told the victims that the property he was offering to sell had earned rental income that was being held in a special escrow account which would also become the property of the buyer after the sale. The defendant instructed purchasers to send their down payments to him using Western Union money transfers. He allegedly defrauded victims of over $360,000 in real estate down payments he collected from them in the scheme.

CIVIL JUDGMENT ORDERED AGAINST DEBTOR

A defendant in a civil suit brought by the U.S. Attorney's Office in the Northern District of Georgia, agreed to pay a $300,000 consent judgment to FDIC after 1 day of trial proceedings. The U.S. Attorney's Office initiated civil prosecution when an OIG investigation found the defendant made false statements to induce the RTC to approve the sale and release of real estate collateral that secured a loan from a subsidiary of Hill Financial Savings Association, Red Hill, Pennsylvania. Hill Financial was taken over by FDIC in March 1989 and placed under the control of RTC. The defendant and his wife personally guaranteed over $8 million in loans from Hill Financial for the purchase and development of a residential subdivision in Gwinnett County, Georgia. After the loans went into default, RTC encouraged the defendant to find a buyer for the real estate development. The defendant subsequently presented RTC with a sales contract from a third party to purchase a majority of the development for $2 million. RTC approved the sale on the condition that the defendant not benefit from the transaction. The defendant represented that he would not derive any profit from the sale. However, the investigation found that the defendant had entered into a joint venture agreement with the purchaser, under which he would share equally in the profits from the subdivision.

AFFORDABLE HOUSING CASES MEET WITH SUCCESS

We continue to see results from investigations undertaken in an effort to combat abuse of the FDIC's and former RTC's Affordable Housing Programs. For example, a Virginia optometrist was indicted by a federal grand jury in the Eastern District of Virginia on charges that he made false statements to and filed false loan applications with the RTC in connection with his purchase of a residence under the RTC's Affordable Housing Disposition Program (AHDP). As a condition of the purchase, the optometrist allegedly certified to RTC that he would occupy the property for one year. Instead, the optometrist leased the property. The optometrist also allegedly provided false income information in order to qualify for participation in the AHDP. As alleged in the indictment, the optometrist failed to disclose his wife's income, and provided RTC with fraudulent tax returns reflecting his filing status to be married filing a separate return, when in fact, he and his wife had filed joint tax returns. Further, he allegedly claimed that his household consisted of three minor children when, in truth, he had no minor children.

As a result of other investigations targeting schemes to fraudulently acquire affordable housing properties from the FDIC or former RTC, three individuals and three corporations pleaded guilty to felony charges and were sentenced this period, and one individual entered a pre-trial diversion agreement in lieu of prosecution. Although these cases are often difficult to prosecute because of the limited monetary losses and the challenges involved in proving whether the purchaser intended to occupy the property, the OIG has consistently dedicated resources to the area because of the importance of ensuring the integrity of the program.

INVESTIGATIONS OF ABUSES BY CONTRACTORS

FDIC CONSULTANTS PLEAD GUILTY IN CONNECTION WITH KICKBACK SCHEME

Two owners of a New York consulting business contracted by FDIC to provide office relocation services, pleaded guilty to conspiracy to evade payment of income taxes and to filing false federal tax returns. A joint investigation with the FBI found that one of the consultants approached the owner of a moving company and offered to award him an FDIC subcontract to relocate FDIC's consolidated office from Westborough, Massachusetts, to Hartford, Connecticut. In exchange for the award of the subcontract, the consultant demanded that the subcontractor inflate his invoices and split half of the proceeds of the inflated billings with the consultants. Unbeknownst to the consultants, the subcontractor reported the kickback demands to the FBI. During the ensuing investigation, OIG and FBI agents arranged for FDIC to pay the false invoices. The agents were then able to identify other kickback schemes and $1.2 million in income resulting from those schemes that the consultants had concealed from the IRS. The FDIC subsequently recovered the $210,000 it paid based on the fraudulent billing.

PROPERTY MANAGER FALSELY BILLS FDIC

A former FDIC property manager pleaded guilty to submitting false invoices to the FDIC. The FDIC had hired the property manager to provide on-site operational management of a hotel the Corporation had acquired from a failed bank. The OIG investigation found that the property manager submitted invoices to FDIC for $44,000 in hotel operating expenses that either had never been incurred or were not allowed under the contract. Additionally, our investigation established that the property manager failed to remit income to the FDIC from hotel concession operations. We also found that the contractor used an “off book” account to provide hotel accommodations to friends at no charge, at an estimated loss to FDIC of $40,000.

INVESTIGATION UNCOVERS EMBEZZLEMENT BY ESCROW OFFICER

An escrow officer formerly employed by a title company in Texas, pleaded guilty to mail fraud after a joint investigation with the FBI found she had embezzled approximately $315,000 in escrow funds from the company, which was then a contractor for the former RTC. The escrow funds related to two real estate transactions, one of which involved RTC as receiver for Fidelity Savings, Austin, Texas. The woman used an assumed name and a fictitious address in converting the escrow funds to her own use. After the embezzlement was discovered, the contractor terminated the woman’s employment. As a result of her guilty plea, the woman, who already made full restitution to the company, was sentenced to serve 3 years probation, three months home detention, perform 50 hours community service, and pay a $5,000 fine.

CONTRACTOR EMPLOYEES IMPLICATED IN THEFTS FROM FDIC OFFICES

At least two investigations this period exposed the Corporation’s vulnerabilities to former contractor employees who were allegedly able to gain access to FDIC offices. As a result of one investigation conducted jointly with the Atlanta Police Department, a former FDIC subcontractor employee was arrested and charged with burglarizing a telephone switch room in FDIC’s Southeast Service Center, Atlanta, Georgia. The investigation developed evidence that the man broke into the Service Center’s switch room and stole 23 circuit packs worth approximately $41,295. The man was allegedly able to access the switch room by crawling through the ceiling of an adjacent public restroom. Although the subcontractor employee has not been charged with any earlier thefts, three similar burglaries previously occurred in the building.

In another case, a former employee of a construction company contracted by FDIC to perform building renovations was arrested during an investigation the OIG was conducting with the Washington Metropolitan Police Department into the theft of four desk top computers from FDIC. The computers, with a total value of $12,000, were removed from the executive office of the Division of Resolutions and Receiverships in Washington, D.C. The former contractor employee, who we identified as a suspect in the thefts, was arrested after our investigation revealed that he was already wanted on charges of grand larceny and fraud by deception in California and Idaho.

CIVIL RECOVERIES SOUGHT IN CONTRACTOR CASES

In addition to criminal prosecutions, our investigations of contractors led to significant civil actions this period. For example, as a result of one investigation, the U.S. Attorney's Office in the Western District of Texas filed a five-count civil complaint against a company contracted to manage a sports club acquired by the RTC as receiver for Mission Savings Association, San Antonio, Texas. The complaint alleged that the company defrauded RTC of over $75,000 by submitting inflated and fictitious invoices relative to the maintenance and management of the property. With the profits acquired through the fraudulent scheme, the company was allegedly able to make improvements to two other sports clubs it owned in Texas. The complaint seeks three times the amount of damages incurred. The OIG's investigation of the contractor was conducted jointly with the FBI, with assistance provided by our Office of Audits.

As a result of another contractor investigation, a Texas-based tax services firm agreed to pay $250,000 to settle a civil complaint brought by the U.S. Attorney's Office, District of Massachusetts, which charged that the company had fraudulently billed the FDIC for services it never performed. The company, along with its president and vice president, agreed to the settlement in lieu of trial. FDIC had contracted with the firm to provide tax research on FDIC-acquired properties and to attempt to negotiate lower tax assessments on the properties. Under the terms of the contract, the company was to be paid a contingency fee of 15 to 20 percent of any tax savings they achieved on behalf of FDIC. Our investigation found that on at least 360 occasions the company billed FDIC for contingency fees, totaling over $154,000, for tax reductions on FDIC properties that the company had no role in obtaining. The tax reductions in those instances were actually the result of the work of other contractors, previous owners, or were prompted by declining market values which led municipal tax assessors to lower their assessments.

As a result of yet another contractor investigation, a company hired by the former RTC to provide resolution assistance and supervisory review services relating to failed financial institutions, agreed to a civil settlement with the United States Attorney's Office, Northern District of Georgia. Under the settlement agreement, the company will pay $118,293 for labor charges it misallocated under the RTC contract. Our investigation, which was initiated based on the findings of an audit conducted by the former RTC OIG, found that company officials improperly instructed employees to reallocate labor hours on their time sheets between two specific task orders. The officials either charged or directed their employees to charge hours to these task orders, even though the employee may not have worked on the task order or worked fewer hours than charged. The company agreed to the civil settlement, after it was faced with the prospect of the U.S. Attorney's Office filing suit under the False Claims Act. Under the False Claims Act, the government is entitled to a civil penalty of between $5,000 to $10,000 for each false claim, and three times the amount of damages sustained by the government.

INVESTIGATIONS OF ALLEGED EMPLOYEE IMPROPRIETIES

- A former liquidation specialist for the FDIC was indicted by a federal grand jury in the District of New Jersey and subsequently arrested on charges of embezzling and laundering FDIC funds following an investigation the OIG conducted with the U.S. Postal Inspection Service. In his position as a liquidation specialist, the employee was responsible for managing and selling assets FDIC acquired from failed banks. One of those assets was a marina on the New Jersey coast. The marina had been posted as collateral for a loan, which later went into default, from the now defunct First National Bank of Toms River. Several months before the bank closed, a fire sprinkler had discharged in the marina's restaurant causing extensive water damage. While the marina was being managed and prepared for sale by the FDIC, the liquidation specialist settled the insurance claim for $138,500. When the liquidation specialist received the check for the insurance settlement, he allegedly forwarded it to his business partner, a Georgia attorney. The attorney allegedly deposited the check in his escrow account and wired the money back to a Washington, D.C. bank account, which was held by a corporation owned by the liquidation specialist. As described in the indictment, the liquidation specialist allegedly withdrew the money from the account over the course of the next several months.

  As a result of our investigation, a real estate developer who ultimately purchased the marina from FDIC, pleaded guilty to filing a false statement with FDIC. The developer admitted that he wrote a worthless downpayment check of $300,000 and submitted false personal financial statements to induce FDIC to sell him the marina for $4 million. Shortly after the purchase, he sold the marina and allegedly shared some of the sales proceeds with the liquidation specialist.
- Two former FDIC employees and an outside associate pleaded guilty to conspiracy charges after an OIG investigation found they had participated in a scheme to defraud the FDIC. The investigation determined that while serving in support positions in

the Legal Division, the two employees created six false invoices, totaling over $67,000, using the name of a fictitious vendor. The invoices were purported to be for advertising expenses associated with FDIC loan auctions. To ensure payment, the employees listed the taxpayer identification number of their associate on the invoices. The associate was then responsible for distributing the illicit funds among the three. FDIC issued checks, totaling almost $29,000, based on the first three false invoices submitted. Payment for the remainder of the false invoices was withheld as a result of the prompt action of FDIC officials who raised questions about the claims and referred the matter to the OIG for investigation.

- In a case described in our last Semiannual Report, a federal jury found a former employee of FDIC's Western Service Center guilty of misapplication of FDIC funds. As a result of his conviction, the former employee was sentenced to serve 20 months in prison followed by 3 years probation. In addition, the judge ordered a lifetime ban of the former FDIC employee from working in any federally insured financial institution. Our investigation, conducted jointly with the U.S. Secret Service, found that while working in the FDIC's mail room, the employee stole a $97,075 check payable to a former FDIC tax accountant. The check represented a property tax refund due FDIC in connection with a building acquired as a result of a bank closure. After forging the check, the clerk deposited it into an account he opened in the tax accountant's name at the FDIC's Employees Federal Credit Union. The theft was detected after a credit union internal auditor noticed the frequency and consistency of withdrawal amounts from the account.

FRAUD AGAINST INSTITUTIONS

FOUR PLEAD GUILTY IN SCHEME TO DEFRAUD RTC

Following a joint investigation with the FBI, a Pennsylvania real estate developer pleaded guilty to all 26 counts of an indictment charging him with bank fraud, making false statements to a financial institution, and concealment of assets from the RTC. Three of the developer's employees also pleaded guilty to bank fraud as a result of the investigation. The investigation found that the developer defrauded a number of lenders who had provided him financing for his development projects. Most of the charges brought against the developer related to loans from Bell Savings Bank, Upper Darby, Pennsylvania, which was taken over by RTC in 1991. Investigation found that prior to the failure of Bell Savings, the developer had diverted approximately $500,000 to himself from a Bell construction loan he obtained to build a development of single family homes in Haverford Township, Pennsylvania. The investigation also determined that the developer submitted inflated subcontractor invoices to Bell Savings for reimbursement under the same construction loan. Additionally, he submitted false financial statements to procure a $750,000 personal line of credit from Bell Savings.

After RTC took over Bell Savings, the developer continued his fraudulent practices. Over a one year period, while he was attempting to negotiate discounted workouts of his loans with RTC, he failed to inform RTC as he sold individual lots in one of the developments Bell Savings had financed. The payoffs from the individual lot sales were supposed to have been directed to RTC to pay down his loan balances. Instead, the developer concealed the payoffs he received, pocketed the funds, and successfully negotiated discounted loan workouts from RTC.

The investigation also found that, while negotiating a workout of one of his construction loans, the developer submitted a false financial statement to RTC claiming that he had a $9 million negative net worth. Six weeks after submitting that financial statement with RTC, he submitted a much different financial statement with the First National Bank of West Chester, from whom he was seeking a $300,000 working capital line of credit. In that statement, he claimed to have a positive net worth of $11 million. To obtain the line of credit, he also falsely represented to the bank that he was not involved in any lawsuits. Shortly thereafter, he submitted yet a third false financial statement, reflecting a positive net worth of $11.8 million, in order to obtain a $2.2 million construction loan from an FDIC insured institution.

- As a result of an investigation described in a prior Semiannual Report, the owner of an Arizona investment company pleaded guilty to bank fraud and money laundering and was sentenced to serve 1 year and 1 day in prison, followed by 36 months of probation. He was also fined $1,000 and ordered to pay $227,413 in restitution to FDIC. The investigation, conducted jointly with the Defense Criminal Investigative Service, the Army Criminal Investigations Division, and the Air Force Office of Special Investigations, found that the man forged and caused to be forged endorsements on insurance checks totaling $207,000. The checks issued after a fire demolished an industrial warehouse in Tempe, Arizona. The payees on the checks included Carteret Savings Bank, which was then under RTC conservatorship and which held the mortgage on the warehouse. The three borrowers on the note, including the man's investment company, were also listed as payees. The checks were supposed to have been endorsed and remitted to Carteret, to be applied toward the $430,909 loan balance. Instead, the man forged the endorsements of the other payees and kept the insurance proceeds himself.

SENTENCING UPDATES

- A Massachusetts developer was sentenced to serve 6 months in prison, followed by 6 months home detention and 18 months of supervised release after earlier pleading guilty to obstruction of justice. As a result of his guilty plea, the developer was also fined $100,000. As we reported in our last semiannual report, the developer paid FDIC restitution of $3.1 million at the time he entered his guilty plea. The OIG investigation leading to the developer's plea found he had concealed personal assets from RTC in an effort to avoid repayment of a defaulted $43 million loan he had personally guaranteed from the former Home Owners Savings Bank, Burlington, Massachusetts. At the time he applied for the development loan, he listed marketable securities valued at $3.4 million on his personal financial statements. However, after the loan went into default, the developer made false statements, produced bogus documents, and falsely testified under oath that he no longer owned the securities in question.
- A debtor of the former RTC was sentenced to serve one year and a day in prison, followed by three years of probation, after earlier pleading guilty to bankruptcy fraud following an OIG investigation. She was also ordered to pay $75,000 in restitution to the U.S. Bankruptcy Court, Southern District of Alabama, and was fined $3,000. The defendant and her husband defaulted on a loan of $1.1 million from the Baldwin County Savings and Loan Association (BCSLA) for the construction and development of commercial property in Gulf Shores, Alabama. BCSLA, which was later taken over by RTC, foreclosed on the property. Prior to the foreclosure, the defendant filed a voluntary petition for Chapter 11 reorganization with the U.S. Bankruptcy Court. The OIG investigation found that the defendant subsequently concealed over $125,000 in assets from the court and RTC by depositing funds into a pre-bankruptcy petition checking account, which she failed to close as instructed by the court, and into accounts she opened in an out-of-state bank. She failed to disclose the out-of-state accounts to the court or to RTC. The woman then gave a substantial portion of the hidden funds to her two sons, who used the funds to purchase their parents' former property at an RTC auction for $463,000. As reported in a prior Semiannual Report, the sons entered a pretrial diversion program in lieu of prosecution for their roles in the fraud.